

DECLASSIFIED

Authority ND 969030  
By AB NARA Date 9/30

DEPT. DISTRIBUTION			
ORIGIN: <u>L-4</u>			
RM/R	REP	AF	ARA
1	1	5	10
EUR	EA	NEA	CU
6	8	10	
INR	E	P	IO
6			5
L	FBO	AID	OCIT
		20	1
		S/FW	SC1
		2	6
		PM	VTC
		2	1
AGR	COM	FRB	INT
10	10		7
JUS	NSF	TR	XMB
1	4	4	
AIR	ARMY	NAVY	OSD
5	3	5	34
JSIA	NSA	CIA	DOT
10	3	10	12
CDA	OST	AEC	CG
17	1	8	1

SUGGESTED DISTRIBUTION

POST ROUTING			
TO:	Action	Info.	Initials
MB/			
IO			
ICM			
OL			
CON			
ONS			
DM			
ID			
SIS			
ILE			

ction Taken:

ote:

Initials:

Drafted by:

/OA-CJF/Man/IO/UNP:SHMcintyre:cek

Clearances: L/OA-Mr. Oxman S/FW-Amb. McRostan

RA/LA-APA-Miss Ridgeway AF/I-Mr. G. G. G. EA/RA-Capt. Long DOD-Mr. Ratiner (info)

EA/RA-Mr. H. H. H. H. Interior-Mr. Stang (info) NOAA-Mr. Pollock (info) IO-Mr. H. H. H. H.

(25) DEPARTMENT OF STATE  
**AIRGRAM**

Original to be Filed in \_\_\_\_\_ Decentralized Files.

POL 33-8

FILE DESIGNATION

CA-2554

NO.

HANDLING INDICATOR

~~CONFIDENTIAL~~

TO : All Diplomatic Posts

CORRECTED COPY

6/4/71

MAY 28 11 04 AM '71

FROM : Department of State

DATE:

SUBJECT : Law of the Sea

REF : A. CA-1573 B. CA-6413, December 29, 1970  
C. Lima 2142 Notal D. Geneva 141 Notal

Enclosed is a summary and analysis of the March 1-26 meeting of the Law of the Sea Conference Preparatory Committee prepared by the U.S. Delegation and the Department. This summary and analysis should provide important background information to addressees in contacts with host government officials responsible for law of the sea matters. The next meeting of the Committee is scheduled for July 19 - August 27 in Geneva.

ROGERS

Enclosure:

As stated.

①

FORM  
10-64 DS-323~~CONFIDENTIAL~~

For Department Use Only

☐ In ☒ Out

Drafting Date:

5/5/71

Phone No.:

23248

Contents and Classification Approved by:

L - John R. Stevenson

DECLASSIFIED

PA/HO Department of State

E.O. 12958, as amended

July 12, 2005

DECLASSIFIED

Authority WFO 969030  
By AB NARA Date 9/30~~CONFIDENTIAL~~Page 2  
CA-2554

Enclosure Page 1

## SUMMARY AND ANALYSIS

March 1971 Meeting LOS Conference  
Preparatory CommitteeA. Organization of Committee on Principal Issues

1. On March 26, the enlarged UN Seabeds Committee (86 members), which serves as Preparatory Committee for the 1973 LOS Conference, completed the first of two sessions planned for this year. The Committee reached agreement on its fundamental organization and the general mandates of its Subcommittees and held two weeks of general debate on procedure and substance.

2. The first two weeks of the session were devoted to organizational arrangements including the setting up of three subcommittees of the whole under the main committee: (1) seabeds regime, (2) other related matters (e.g., territorial seas, straits, fisheries), and (3) marine environment and scientific research. The main committee under Chairman Amerasinghe of Ceylon will constitute essentially a steering group under which the subcommittees, and their Working Groups which we hope to see established, will engage in the drafting of treaty articles to be presented to the 1973 Law of the Sea Conference. Ambassador Amerasinghe has proved himself an extraordinarily able chairman of the Seabeds Committee over the last three years, and we are especially pleased by his re-election

3. Subcommittee I on Seabeds Regime, is chaired by Dr. E.E. Seaton of Tanzania who has proved himself very able during the 25th GA and who is also the author of the only draft seabed convention produced so far by a developing country. The key question remaining with regard to this subcommittee is whether it will be able to consider the limits of national jurisdiction over the seabed (boundaries), at the same time as it develops a seabed regime.

It is our view and that of the Soviets and other developed countries that drafting treaty articles containing a regime to govern the exploration and exploitation of the deep seabed is impossible without at the same time considering the definition of the area to which it is to apply.

While the mandate of the subcommittee does not specifically extend to the seabed boundary question, it is not prohibited from dealing with it. We can expect, nevertheless, that at

~~CONFIDENTIAL~~DECLASSIFIED  
PA/HO Department of State  
E.O. 12958, as amended  
July 12, 2005

DECLASSIFIED

Authority IND 969030  
By AB NARA Date 9/30Page 3  
CA-2554~~CONFIDENTIAL~~

Enclosure Page 2

the July-August meeting the Latin Americans will attempt to get the Africans and Asians to agree that the seabed boundary issue should be dealt with together with other ocean boundary questions in Subcommittee II which is chaired by a Latin American from a "200-mile" territorial sea country.

4. The first task of Subcommittee II will be to "draw up a list" of those oceans matters on which it will draft treaty articles. It is our view that work on certain of these treaty provisions should begin even before the compilation of the list (which could be a dilatory maneuver) is completed. For example, the question of a new regime for high seas fisheries (including certain coastal state preferences therein) needs to be dealt with as soon as possible and there is general agreement that work should begin in this respect.

The Latin Americans can be expected to attempt to delay the substantive work of this Subcommittee by insisting that full agreement be achieved on the list of subjects to be dealt with prior to commencing substantive work on any of them. Galindo Pohl (El Salvador) is Chairman of Subcommittee II and may not be particularly effective. However, he is not personally a militant 200-miler and has confided to the Legal Adviser his strong desire to find a basis for accommodation between the US and Latin American positions.

The US favors narrow limits of absolute national jurisdiction, but is willing to concede to the coastal state certain preferences off its shores with respect to marine resources and the prevention of pollution. The Latin Americans, on the other hand, want much greater coastal state control over a broad adjacent area. Nine Latin American countries claim jurisdiction of one sort or another out to 200 miles.

5. Subcommittee III which will deal with questions of marine pollution and scientific research, is chaired by van der Essen (Belgium). While we are quite anxious to deal with certain outstanding marine pollution problems in this Subcommittee, we feel that any extensive consideration of scientific research in this forum can only result in restrictions of its freedom.

~~CONFIDENTIAL~~

DECLASSIFIED  
PA/HO Department of State  
E.O. 12958, as amended  
July 12, 2005

DECLASSIFIED

Authority

WD 969030

By

AB NARA

Date 9/30

Page 4  
CA-2554~~CONFIDENTIAL~~

Enclosure Page 3

B. Developments at the March Session

1. The development of the foregoing organization was achieved in two weeks of informal meetings taking up one-half of the March session. The Africans would not agree to a formal meeting of the Committee until they were satisfied that the organizational arrangements including African Chairmanship of the Regime Subcommittee. The long procedural dispute was really a continuation of the fight which had begun last January in New York; and, while the three Subcommittees described above were in fact organized, working Groups of limited composition (considerably less than 86) to do the actual drafting were not set up at the March session.
2. Fortunately, in the very last days of the meeting, a number of Africans in particular questioned the absence of working groups. It is hoped that we shall be able in the first days of the July-August meeting to establish small working groups to begin the actual drafting of treaty articles on such priority matters as seabeds regime and boundary, and fisheries. It is virtually impossible for an 86-member committee to engage in such drafting.
3. A further development during the period of procedural conflict was the gradual coalescence of the developing countries in the so-called Group of 77. Developing countries which began by meeting in regional groups eventually came to see their interests in the oceans as one of concern to developing countries generally.
4. Another development involves the coalescence of the land-locked and shelf-locked\* countries which began to organize themselves informally and held secret meetings. This new group formed by Koh (Singapore) and Prohaska (Austria) wants our support, but cautions us strictly against embracing them publicly for fear that such an embrace could destroy them as a group.
5. The second two weeks of the meeting were devoted to general debate in the main committee and organizational sessions of the Subcommittees. General debate began with Arias Schreiber (Peru) laying down in the strongest terms the gospel of

\*Shelf-locked countries are those whose continental margins abut those of their neighbors in all directions at less than 200 meters depth of water.

~~CONFIDENTIAL~~

DECLASSIFIED  
PA/HO Department of State  
E.O. 12958, as amended  
July 12, 2005

DECLASSIFIED

Authority **WMD 969030**  
By **AB** NARA Date **9/30**Page 5  
CA-2554~~CONFIDENTIAL~~

Enclosure Page 4

unilateralism, i.e., the right of the coastal state to determine its own limits of national jurisdiction over ocean space in accordance with its political, economic and geographic interests.

6. Zegers (Chile), although a "200-miler", took a more moderate view; and privately some of the Latin Americans such as Argentina, Guatemala and Mexico, as well as a number of Afro-Asians, criticized the high-handed tactics of Schreiber. Nevertheless, a number of speakers mentioned the unilateral approach as a viable alternative to resolving outstanding oceans problems through broad international agreements. In this respect "unilateralism" achieved a respectability at the March session which it did not previously enjoy.

7. Perhaps the most important speech of the session was that of Pardo (Malta) who in a three-hour presentation gave his prescription for a new international order for the oceans. (Pardo initiated UN consideration of these issues by a speech before the 22nd General Assembly in 1967.) Pardo advocated a single treaty which would define the limits of national jurisdiction over ocean space and describe norms governing activities in the area beyond national jurisdiction. He proposed a new international institution in which there would be a balancing of interests and voting power to deal with the oceans as a whole beyond national jurisdiction. He singled out fisheries as the most valuable ocean resource today and pointed out that effective management of world fisheries was needed.

Perhaps most importantly, Pardo advocated a single over-all clearly defined outer limit of national jurisdiction recognizing and satisfying the totality of coastal state interests -- 200 miles. At the same time, Pardo stated that coastal state rights within 200 miles would be limited by general and specific international norms established by treaty and subject to judicial review. These norms would be related to such questions as marine pollution and scientific research. Pardo stated that navigation could no longer be exercised without regulation, but regulation of navigation must remain of a general nature administered through international institutions.

8. In our general debate speech, we sought to be accommodating despite considerable provocation by the Latin Americans. This approach won the US plaudits and permitted debate to continue on a serious level. We detailed US views on substance with respect to seabeds and marine pollution. With regard to seabeds, we emphasized the balancing of interests (coastal/non-coastal;

~~CONFIDENTIAL~~

DECLASSIFIED  
PA/HO Department of State  
E.O. 12958, as amended  
July 12, 2005

DECLASSIFIED

Authority

WMD 969030

By

NARA Date

9/30

Page 6

CA-2554

~~CONFIDENTIAL~~

Enclosure Page 5

developed/developing) contained in our draft convention and pointed out that nations would have to assess their national interests and then accommodate those interests to others in order to achieve international agreement which would avoid conflict and at the same time encourage seabed exploitation on behalf of all mankind.

9. A serious tactical problem emerging is that the hard line 200 mile Latins such as Brazil urged an extreme seabed regime with one-nation one-vote. If they gain support for this from the Group of 77, it could result in developed countries being forced to support a wide limit of national jurisdiction so as to protect themselves against an international regime which would be weighted against them. Our presentation thus pointed out that an international regime drawing revenues only from an area beyond 200 miles would have only limited benefits for developing countries since most oil and gas is probably located within 200 miles. While our statement was well-received, many delegations clearly wished more time to study the problem. With regard to marine pollution, we emphasized our commitment to achieve international agreements which would preserve the marine environment.
10. Ceylon and a few other delegations indicated a willingness to consider the trusteeship concept contained in our draft seabeds convention. Belgium and Denmark supported our convention, while some Latin Americans and Kuwait were critical. By and large, however, there was little specific comment on our seabed proposals. Other nations are still considering our ideas and are not yet ready to comment in detail. Even Seaton (Tanzania) has privately complained that he cannot get Africans to comment on his own draft seabed treaty. At the same time, LDCs are increasingly vocal on the need to "participate" in exploration and exploitation of ocean space -- i.e., not just share in the benefits. Ceylon, Kuwait, Brazil and India all spoke on the need for any international organization set up not only to administer the seabed but to exploit it directly.
11. Most delegations strongly favor increased coastal state fishing rights without complex procedures, although most statements in favor of broad exclusive fishing zones came from the Latin Americans. The general view appears to support greater coastal state fishing preferences on the high seas than are contained in our present position on fisheries set out in Article 3.

~~CONFIDENTIAL~~

NEA

DECLASSIFIED  
PA/HO Department of State  
E.O. 12958, as amended  
July 12, 2005

DECLASSIFIED

Authority WMD 969030  
By AB NARA Date 9/30Page 7  
CA-2554~~CONFIDENTIAL~~

Enclosure Page 6

C. Conclusion

While specific accomplishments at this session were thus modest, most delegates felt that it was necessary to go through the process of sorting things out before the Committee could engage in the process of accommodation that will be essential to the success of its work. We consider that as a result of the March session, there is a greater chance that the July-August session can make significant progress on substance, although it is widely recognized progress will be difficult.

AG  
1  
JUL  
AIR  
USI  
10  
ACD  
12  
SUG

TO:  
AMB/  
PO  
DCM  
POL  
ECON  
CONS  
DM  
ID  
SIS

LE  
tion

te:  
rials  
raffe  
/OZ  
leard  
RA/  
EA/

~~CONFIDENTIAL~~

DECLASSIFIED  
PA/HO Department of State  
E.O. 12958, as amended  
July 12, 2005